

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JUE ZHANG  
Plaintiff

v.

MICHAEL P. GOLDFINGER, M.D., and  
SHRAGA N. GOLDBERG, M.D.  
Defendants

CIVIL ACTION NO. 04-

RECEIPT # 101112  
AMOUNT \$ 150  
SUMMONS ISSUED RS  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY CLK. 101112  
DATE 12-29-04

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES

1. The Plaintiff, Jue Zhang Resides at E26 Mill Pond Road, Broad Brook, Hartford County, Connecticut.
2. Defendant Michael Goldfinger, M.D. is a physician duly licensed to practice medicine in the Commonwealth of Massachusetts. At all times relevant hereto, said Defendant practiced radiology at Beth Israel Deaconess Medical Center, Boston, Suffolk County, Massachusetts.
3. Defendant Shraga Goldberg, M.D. is a physician duly licensed to practice medicine in the Commonwealth of Massachusetts. At all times relevant hereto, said Defendant practiced radiology at Beth Israel Deaconess Medical Center, Boston, Suffolk County, Massachusetts.
4. The United States District Court has jurisdiction in this matter because of diversity of parties.
5. The amount in controversy exceeds the amount necessary to satisfy the jurisdictional requirements of this Court.

**COUNT I**

**(Negligence – Shraga Goldberg, M.D.)**

6. Paragraphs 1 through 5 are incorporated by reference as if set forth fully herein.
7. On or about November 8, 2001 and thereafter, the Defendant, Shraga Goldberg, M.D., for valuable consideration, undertook to treat and care for Plaintiff Jue Zhang.

8. It then and there became the duty of Defendant, Shraga Goldberg, M.D. to exercise that degree of care, diligence, and skill as is exercised by an average surgeon holding himself out in the field at the time in question.
9. Nevertheless, Defendant Shraga Goldberg, M.D. breached his duty and failed to exercise said degree of care, diligence and skill by negligently treating, recommending treatment for, supervising the care of, and by otherwise failing to render proper, adequate and necessary medical care and treatment of Plaintiff Jue Zhang.
10. As a direct and proximate result of the Defendant's negligence as aforesaid, Plaintiff Jue Zhang suffered severe and permanent injuries, endured and will in the future endure, great pain and suffering and mental anguish, has incurred and will in the future incur medical and other extraordinary expenses for their care and treatment, has and will in the future suffer a loss of earnings and earning capacity, and said Plaintiff was and otherwise is greatly injured.

WHEREFORE, Plaintiff Jue Zhang, Individually, demands judgment against the Defendant Shraga Goldberg, M.D. in such an amount as a jury may deem proper, plus interest and costs.

**COUNT II**  
**(Negligence – Michael Goldfinger, M.D.)**

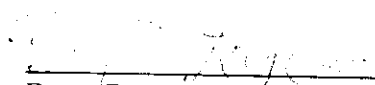
11. Paragraphs 1 through 10 are incorporated by reference as if set forth fully herein.
12. On or about November 8, 2001 and thereafter, the Defendant, Michael Goldfinger, M.D., for valuable consideration, undertook to treat and care for Plaintiff Jue Zhang.
13. It then and there became the duty of Defendant, Michael Goldfinger, M.D. to exercise that degree of care, diligence, and skill as is exercised by an average surgeon holding himself out in the field at the time in question.
14. Nevertheless, Defendant Michael Goldfinger, M.D. breached his duty and failed to exercise said degree of care, diligence and skill by negligently treating, recommending treatment for, supervising the care of, and by otherwise failing to render proper, adequate and necessary medical care and treatment of Plaintiff Jue Zhang..
15. As a direct and proximate result of the Defendant's negligence as aforesaid, Plaintiff Jue Zhang suffered severe and permanent injuries, endured and will in the future endure, great pain and suffering and mental anguish, has incurred and will in the future incur medical and other extraordinary expenses for their care and treatment, has and will in the future suffer a loss of earnings and earning capacity, and said Plaintiff was and otherwise is greatly injured.

WHEREFORE, Plaintiff Jue Zhang, Individually, demands judgment against the Defendant Michael Goldfinger, M.D. in such an amount as a jury may deem proper, plus interest and costs

**JURY DEMAND**

The plaintiffs demand a trial by jury.

The Plaintiffs,  
By their Attorneys,

  
\_\_\_\_\_  
Barry D. Lang, Esq.

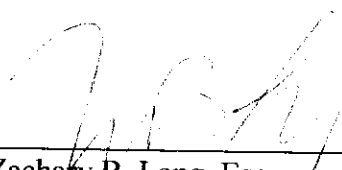
BBO # 565438

Barry D. Lang, M.D. & Associates

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Boston, MA 02109

(617) 720-0176

  
\_\_\_\_\_  
Zachary B. Lang, Esq.

BBO# 652055

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(617) 720-0176

Dated: December 27, 2004

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, nor as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for filing and recording the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Jue Zhang

(b) County of Residence of First Listed Plaintiff Hartford County (CT)  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's Name, Address, and Telephone Number

Barry Lang, Barry D. Lang, MD & Assoc, 1 State St, Ste 1050  
Boston, MA 02109 (617) 720-0176

## DEFENDANTS

Michael Goldfinger, M.D. and Shraga Goldberg, M.D.

County of Residence of First Listed Defendant Middlesex County (MA)  
(IN U.S. PLAINTIFF CASES ONLY)

NOTICE: IN FEDERAL COURTS, IN CASES WHERE LAND IS INVOLVED,  
LAND INVOLVED.

Attorney (if known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |  |   |   |
|---|--|---|---|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 DEF <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 <input type="checkbox"/> 2         | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5         |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3                    | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6         |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Debt (Suits on Loans (Including Veterans)) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Other Contract Litigation	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employment Liability <input type="checkbox"/> 340 General Personal Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal	<b>PERSONAL INJURY</b> <input checked="" type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PROPERTY</b> <input type="checkbox"/> 370 Real Estate <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety & Health <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Securities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 880 Other Statutes <input type="checkbox"/> 890 Environmental <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 1332

Brief description of cause of action:  
Defendants misread a CT scan resulting in a misdiagnosis of tuberculous infection.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

\$100,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND:

☒ Yes ☐ No

## VIII. RELATED CASE(S)

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Zhang v. Goldfinger, M.D.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☐ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☒ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☐

Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☒ NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☐ Central Division ☐ Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (if yes, submit a separate sheet identifying the motions)

YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Barry D. Lang, Esq. / Zachary B. Lang, Esq.ADDRESS 1 State Street, Suite 1050, Boston, MA 02109TELEPHONE NO. 617-720-0176